



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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SUBJECT

Adopt Resolution authorizing the Successor Agency to Transfer Ownership of Certain Real Property from the Successor Agency to the City of Sunnyvale as a Governmental Purposes transfer pursuant to the Dissolution Act (AB x1 26, AB 1484 and SB107)

REPORT IN BRIEF

The Oversight Board on September 24, 2015, adopted a resolution directing the Successor Agency to transfer to the City the former Redevelopment Agency owned property located at 200 West Evelyn Street, commonly known as Plaza del Sol, ("Property") as a governmental purposes transfer in accordance with Health and Safety Code Section 34181(a) and the Department of Finance (DOF) approved the Oversight Board resolution. The Property is primarily used for a public plaza and also contains four levels of subterranean parking which are included within the Downtown Sunnyvale Parking District. Inadvertently, the transfer did not occur after DOF's approval and staff is recommending that the Successor Agency Board authorize the Executive Director to transfer ownership of the Property to the City.

DISCUSSION

The State of California's passage of AB x1 26 dissolved Redevelopment Agencies and replaced them with Successor Agencies effective February 1, 2012. The City of Sunnyvale elected to be the Successor Agency for the Sunnyvale Redevelopment Agency. On February 1, 2012, properties and assets owned by the former Redevelopment Agency transferred to the Successor Agency. AB x1 26 was later amended by AB1484 in June of 2012 and by SB 107 in September 2015. The Dissolution Laws contain provisions regarding transfers of properties that are used for governmental purposes. The Dissolution Law also requires the formation of an Oversight Board for the Successor Agency that must approve certain Successor Agency actions and also may direct the Successor Agency to take certain actions with regards to former Redevelopment Agency property.

In accordance with California Health and Safety Code Section 34181(a) the Oversight Board may direct the Successor Agency to: "[d]ispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset." "Parking facilities and lots dedicated solely to public parking do not include properties that generate revenues in excess of reasonable maintenance costs of the properties."

The Oversight Board on September 24, 2015, adopted a resolution directing the Successor Agency to transfer, as a governmental purposes transfer, the Property to the City in accordance with Health and Safety Code Section 34181(a) and the Department of Finance approved the Oversight Board resolution. The Property in question is primarily used for a public plaza. The Property also contains

four levels of subterranean parking which are included within the Downtown Sunnyvale Parking District. The subterranean parking is part of a larger parking structure that occupies the subsurface level of the Property as well as three adjacent parcels in private ownership. The underground garage functions as a single parking structure with two and one-half levels of the portion of the garage on the Property restricted by a perpetual easement for use by the tenants of the office buildings free of charge. The underground parking structure is governed by a Declaration of Covenants, Conditions and Restrictions and Reciprocal Easement Agreement ("CC&Rs") recorded against and benefiting the Property and the adjacent properties that are developed with three office buildings.

The CC&Rs grant the parties cross easements for ingress and egress and structural support. Pursuant to the CC&Rs the owner of the office buildings is responsible for the maintenance of the underground parking. The Successor Agency is responsible for the maintenance of the public plaza located on the surface level. Cost of insurance is split between the office building owner and the Successor Agency with the Successor Agency being responsible for 25% of the insurance costs. Prior to dissolution of the Redevelopment Agency, the City paid the insurance costs each year and would continue to be responsible for these costs upon transfer of the property to the City. The CC&Rs also require that the owner of the Successor Agency parcel pay 25% of the replacement costs of the entire parking structure, including the portions located on the privately-owned parcels, if the parking structure is destroyed or damaged. This obligation would be assumed by the City upon transfer of the property to the City.

The Property is included in the Downtown Parking District created by the City of Sunnyvale pursuant to Ordinance No. 369. The Downtown Parking District was created in order to pay for the acquisition and development of public parking spaces serving the Downtown Area. Most of the businesses in Downtown Sunnyvale do not have on-site parking. Through the creation of the Parking District and its acquisition and development of parking facilities in the Downtown Area, businesses are allowed to develop without providing on-site parking thereby maximizing the development capacity of the properties. Most of the parking for the retail uses in the Downtown area is provided in public parking lots and garages maintained by the Downtown Parking District. The California Parking District Law of 1951 allows for the discontinuation of public parking spaces but only after a public hearing and after the legislative body determines by a four-fifths vote that the public interest and necessity and the needs of the District no longer require that such property be used as public parking places.

Upon approval of the transfer, the City's Property Administrator may accept the conveyance instrument pursuant to the authority granted to the Property Administrator by the City Council.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061 (b) (3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT

Because the property being transferred to the City is restricted to public parking and a public park it has been appraised at a zero value. The City, upon assuming title to the Property, will be responsible for the insurance costs associated with its share of the parking and could be responsible for 25% of

the replacement costs of the parking structure. The City has in the past paid the insurance costs.

PUBLIC CONTACT

Public contact was made by posting the Successor Agency agenda on the Agency's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Authorize the Successor Agency Executive Director to take such actions and execute such instruments and documents as are necessary to transfer the property located at 200 West Evelyn Street, commonly known as Plaza del Sol, to the City as a Governmental Purposes transfer pursuant to the Dissolution Act.
2. Do not authorize the Successor Agency Executive Director to take such actions and execute such instruments and documents as are necessary to transfer the property located at 200 West Evelyn Street, commonly known as Plaza del Sol, to the City as a Governmental Purposes transfer pursuant to the Dissolution Act.

If the Successor Agency does not authorize the transfer, then it will retain the Property until the Successor Agency has met all of its enforceable obligations, at which time, pursuant to the Dissolution Law the Successor Agency is obligated to dispose of all of its assets and dissolve. At this time, there is no projection on when the Successor Agency will pay all of its debts.

RECOMMENDATION

Alternative 1: Authorize the Successor Agency Executive Director to take such actions and execute such instruments and documents as are necessary to transfer the property located at 200 West Evelyn Street, commonly known as Plaza del Sol, to the City as a Governmental Purposes transfer pursuant to the Dissolution Act.

Prepared by: John A. Nagel, City Attorney and Agency Counsel
Approved by: Teri Silva, Assistant City Manager

ATTACHMENT

1. Resolution